



CITY OF PITTSBURGH

Department of Law

William Peduto, Mayor

Celia B. Liss, Open Records Officer

March 27, 2019

Beryl Lipton
MuckRock
DEPT MR 69497
411A Highland Avenue
Somerville, MA 02144-2516
By Email: 69497-79333431@requests.muckrock.com

RE: RTK No. 110-01-2019

Dear Ms. Lipton:

On February 22, 2019, the City of Pittsburgh Open Records Office received your written request for records pursuant to the Pennsylvania Right-to-Know Law (RTKL), 65 P.S. §67.101 *et seq.* Your specific request is as follows:

Pursuant to the Pennsylvania Right to Know Act, I hereby request the following records:

1. *Records and materials related to the solicitation, acquisition, and use of face recognition technology and related software and services.*
2. *This software or services may be provided by Rekognition, Face++, and FaceFirst; this request is applicable to these and any other company providing facial recognition services under consideration or contract with this agency.*

Materials responsive materials include but are not limited to:

- a. *Agreements: contracts (including non-disclosure agreements), licensing agreements, nondisclosure agreements*
- b. *Bid records: Requests For Proposal (or equivalent calls for bids), sole source or limited source justification and approval documentation, documentation of selection, and other materials generated in the consideration and selection of the technology in question*
- c. *Company relations and communications: records related to meetings or follow-up actions with any vendors, companies, or other private entities marketing face recognition to this agency for immigration, intelligence, law enforcement, or other use.*
- d. *Financial records: purchase orders, invoices, and other memoranda and documentation.*

- e. *Marketing records: All marketing materials - unsolicited, requested, or otherwise - acquired from vendors of face recognition technology*
- f. *Policy records: any policy directives, guidance documents, memoranda, training materials, or similar records governing the use of face recognition technology for immigration, law enforcement, or other purposes.*
- g. *Training records: training material governing the use, sharing, or access to any related data related to or collected by the face recognition software/technology, including the legal standard that is required before using the technology*
- h. *Use and function records: Materials that describe the function of the software considered or in use by this agency, including emails, handouts, PowerPoint presentations, advertisements, or specification documents.*

Please limit the search to records produced from January 1, 2017 – present. Please include in your search as responsive records: communications, memorandums, background papers, meeting minutes, email exchanges, or presentation materials.

Upon investigation, with the exception of a Pittsburgh Bureau of Police (PBP) policy concerning facial recognition in response to Item f. of your request, I have determined that the City is not in possession of the requested records and your request is denied in its entirety.

The PBP does not have any facial recognition tools, and it is the stated policy of the PBP not to use facial recognition programs. See General Order 69-1, Section 12.1 in the attached policy for Mobile Video/Audio Recording Equipment.


To the extent anything requested does not exist, the RTKL instructs that the City is not required to create records which do not currently exist. See 65 P.S. §67.705. Additionally, nothing in the RTKL shall be construed to modify, rescind or supersede any of the City's record retention policies. See 65 P.S. §67.507.

If you feel that any aspect of this response to your request is in error, you may take an appeal by writing to Erik Arneson, Executive Director, Office of Open Records, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120. If you wish to take an appeal, you must do so within fifteen (15) business days of the date of this letter. See 65 P.S. §67.1101.

Sincerely,

Celia B. Liss
Open Records Officer

CBL/emh

PBP FORM 290  PITTSBURGH BUREAU OF POLICE <i>"...honor, integrity, courage, respect, and compassion."</i>		SUBJECT: "MOBILE VIDEO/AUDIO RECORDING EQUIPMENT (MVR)"		ORDER NUMBER: 69-1
		PLEAC STANDARD: 2.4.2		PAGE 1 OF 5
REVISE DATE: 6/21/2018	EFFECTIVE DATE: 4/15/2012	ANNUAL REVIEW DATE: NOVEMBER	RESCINDS: COP 10-005 COP 12-002 ACA 11-013 ACA 11-018	AMENDS: NONE

1.0 POLICY

- 1.1 This policy establishes guidelines and procedures for the utilization of Mobile Video/Audio Recording (MVR) equipment. Additionally, this policy establishes procedures for the retention, duplication, and storage of recordings from MVR equipment, and the procedures to be followed by MVR Custodial Officers for the retention, duplication, and storage of recordings.

2.0 PURPOSE

- 2.1 The use of the MVR equipment will allow the Pittsburgh Bureau of Police (PBP) to accomplish many goals including, but not limited to, the following:
- 2.1.1 Allow members to more accurately document events, actions, conditions, and statements made during incidents.
 - 2.1.2 Enhance a member's ability to prepare reports and present court testimony.
 - 2.1.3 Improve the training capabilities of the PBP.
 - 2.1.4 Assist the PBP with investigations of alleged misconduct.
 - 2.1.5 Protect the PBP and its members from civil liability resulting from wrongful accusations of misconduct.

3.0 DEFINITIONS

- 3.1 Mobile Video/Audio Recording (MVR) Equipment – all cameras, accessories, docking stations, etc. related to the in-car cameras.
- 3.2 MVR Custodial Officers – Computer Crime Unit personnel

4.0 PRE-OPERATIONAL PROCEDURES

- 4.1 Members shall not use the MVR equipment until they have received the proper training.
- 4.1.1 The Training Academy will maintain a record of all trained personnel.
 - 4.1.2 The Training Academy shall be responsible for providing training and remedial training for the MVR.
- 4.2 Operational problems with or damage to the MVR equipment shall be immediately reported to the member's supervisor.
- 4.2.1 The member must also immediately send an e-mail message to PBP Fleet Operations, the Commander of Support Services, and the member's supervisor explaining the problem with the MVR equipment.
 - 4.2.2 The member must note any MVR operational problems or damage on their running sheet.
 - 4.2.3 Damage to MVR equipment must also be reported to the member's duty location Commander by means of a PBP Form #4.10 "Special Report".

5.0 MOBILE VIDEO/AUDIO RECORDING OPERATIONS

5.1 Utilization: Members operating MVR-equipped vehicles will ensure the following types of incidents are recorded:

- 5.1.1 Traffic and criminal enforcement stops.
- 5.1.2 In-progress Vehicle and Crimes Code violations.
- 5.1.3 Police vehicle pursuits.
- 5.1.4 Patrol vehicle travel and movements when emergency lights or siren are activated.
- 5.1.5 Fatal crash or major crime scenes, as necessary, to document the scene.
- 5.1.6 Prisoner transports.
- 5.1.7 Any other incident the member deems appropriate while acting in the performance of his/her official duty.

5.1.8 When it is safe to do so, officers should record the following:

- 5.1.8.1 Pat downs
- 5.1.8.2 Obtaining consent to search
- 5.1.8.3 Search incident to arrest
- 5.1.8.4 Standardized Field Sobriety Test/DUI stops

- 5.1.9 Members assigned to a MVR equipped vehicle who are trained to use the MVR, shall log into the MVR system at the beginning of their tour of duty using their individually assigned key FOB and shall carry the audio transmitter throughout their tour of duty.

5.2 Legal Requirements: Member shall abide by the following legal requirements governing the use of MVR equipment.

- 5.2.1 Members shall not use MVR equipment unless acting in the performance of their official duties, whether on-duty or working authorized secondary employment details.
- 5.2.2 Members shall only use Bureau issued MVR equipment, which has been approved for use in accordance with the Pennsylvania Bulletin.
- 5.2.3 Members shall ensure that the visual or audible warning system of the vehicle is activated, or the member is otherwise clearly identifiable as a law enforcement officer. This requirement is satisfied if the member is in uniform and operating a marked patrol vehicle.
- 5.2.4 Only oral communications occurring in close proximity to the member may be recorded. This legal requirement is satisfied by the current range settings of the wireless microphone.
- 5.2.5 Member shall inform all individuals identifiably present as soon as reasonably practicable, that their oral/video communications will be or have been intercepted and recorded.
- 5.2.6 MVR equipment shall not be used to record oral communications inside the residence of any individual unless the member is in fresh pursuit of the individual and deactivation of the MVR equipment would create a risk to the safety of all involved.

5.3 Additional Requirements: Members shall abide by the following additional requirements governing the use of MVR equipment.

- 5.3.1 When more than one member is assigned to a MVR equipped vehicle, the operator of the vehicle shall carry the audio transmitter and log into the MVR system.
- 5.3.2 When the recording function has been activated to record an incident, it shall not be deactivated until the incident has been completed. Members are encouraged to narrate the video recording during a recorded incident, which will assist in establishing probable cause for enforcement action and assist in report writing.

5.3.3 Members shall not erase or alter MVR recordings.

5.3.4 Upon completion of an assigned shift, member shall ensure the audio transmitter is placed in the docking station.

5.4 Officers shall not respond to an emergency call for service with the emergency lights in Mode 1. Mode 1 shall only be used when the vehicle is stationary. Mode 2 or 3 shall be used when the vehicle is in motion.

5.5 Officers shall not physically reposition the cameras to face an actor being transported in the police vehicle.

5.6 Each officer that is trained to use the MVR will be issued a key FOB. Officers are responsible for their assigned FOB.

5.6.1 If the camera FOB is damaged, it will be sent to Computer Operations. The Computer Operations Liaison Unit will ensure that the FOB is replaced.

5.6.2 Lost, stolen, or damaged camera FOBs shall be reported on a Lost/Stolen/Damaged Uniform or Equipment Claim, PBP Form 81.1.

5.7 The use of the MVR shall be recorded in the appropriate section of PBP reports, and in the remarks section of citations.

6.0 DUPLICATION/RETENTION OF MOBILE AUDIO/VIDEO RECORDINGS

6.1 Any and all data and recordings provided by the MVR equipment will be considered investigative materials.

6.2 Any and all data and recordings created by the MVR equipment are the exclusive property of the PBP. Members will not duplicate, copy, or otherwise possess any such data or recordings for any personal reason.

6.3 Mandatory Duplication/Retention: The following types of incidents recorded on MVR equipment shall be duplicated, retained, and processed as evidence by the MVR Custodial Officer in accordance with this regulation as soon as practical. Duplication will be done automatically by the recording device.

6.3.1 Incidents which may result in the filing of misdemeanor or felony charges.

6.3.2 Incidents which are likely to become the subject of civil litigation against the PBP or its personnel, including, but not limited to, patrol vehicle crashes, pursuits, critical incidents, incidents involving use of force, and incidents involving verbal complaint(s) against the PBP or its personnel.

6.4 Requests for Duplication/Retention: Any member who believes that duplication and retention of a recording of a nature not specified by this regulation is required (e.g., for use in a summary proceeding involving a serious traffic violation or training), shall complete PBP Form #69.10, "Mobile Video/Audio Recording Request Form" located in the Police Officer's Toolkit on the "I" drive. This completed form will be submitted to the member's supervisor for review and approval, after which the member will forward the completed hard copy via interoffice mail to the Computer Crime Unit.

7.0 ZONE COMMANDER DUTIES AND RESPONSIBILITIES

7.1 Zone Commanders shall ensure that the assigned number of MVR recordings are reviewed each month to ensure that members under their command are following PBP policies and procedures.

7.2 Zone Commanders must document such reviews on PBP Form #69.20, "Commander's Monthly Mobile Video/Audio Recording Review Report", found in the Supervisor's Toolkit on the I drive. This form is to be submitted by the 15th of each month with the other monthly reports.

8.0 ZONE LIEUTENANT AND SERGEANT DUTIES AND RESPONSIBILITIES

8.1 Zone lieutenants and sergeants shall have access to view all MVR recordings from their respective zone.

- 8.2 Each sergeant must review at least two (2) MVR recordings per month from every officer in their assigned PARS/OMS evaluation group for their respective shift. Supervisors must document such review on their monthly MVR report.
- 8.3 If zone sergeants operate a vehicle equipped with MVR equipment, zone lieutenants must review at least two (2) MVR recordings per month from their respective shift sergeants. Supervisors must document such review on their monthly MVR report.
- 8.4 Zone supervisors shall ensure that members have logged into the MVR system. If there are videos that are unassigned due to officers not signing into the MVR system, the supervisors shall go into the MVR system and assign the correct officer to those videos.

9.0 MVR CUSTODIAL OFFICER RESPONSIBILITIES

- 9.1 MVR Custodial Officers shall be responsible for the retention, duplication, and storage of MVR recordings.

10.0 MOBILE VIDEO/AUDIO RECORDINGS

- 10.1 Per contract, "L3" is responsible for ensuring the below-listed recordings on the media are duplicated and stored in accordance with this policy. Duplicated recordings shall be retained until the case is adjudicated or there is a court order, unless otherwise indicated below:
- 10.1.1 Recordings requested to be preserved by a member on the recording, a supervisor, or the Office of Municipal Investigations (OMI), where the recording may be necessary for use in any criminal or forfeiture proceeding.
- 10.1.2 Recordings requested to be preserved by a member on the recording or a supervisor, where the recording may be necessary for use in any summary proceeding involving a serious traffic violation.
- 10.1.3 Recordings requested to be preserved by a supervisor, the OMI, or the City Law Department, where the recording may be necessary for use in any civil, administrative, or disciplinary proceeding.
- 10.1.4 Recordings requested to be preserved by any individual who is a participant on the recording for use in any criminal proceeding. Such requests must be in writing to the Chief of Police, and should contain the date, time, and location of the recording and the names of the parties involved.
- 10.1.5 Recordings requested to be preserved by any individual who is a participant on the recording for use in any civil proceeding against the PBP or its personnel. Such requests must be in writing, and should contain the date, time, location of the recording, and the name of the officer logged into the MVR system. Notice of the request shall be immediately provided to the City Law Department.
- 10.1.6 Recordings requested to be preserved by any individual who is a participant on the recording for use in any civil proceeding that is not against the PBP or its personnel. Such requests must be in writing to the City of Pittsburgh Law Department, and should contain the date, time, location of the recording, and the names of the parties involved. The recordings shall be duplicated and retained for a period of two years or until a copy of the recording has been provided to the requester when authorized under PBP policies, whichever comes first.
- 10.1.7 Recordings that are the subject of a subpoena, court order, or request for pretrial discovery or inspection. Copies of the recording shall be furnished to the requester in accordance with existing PBP policies.
- 10.1.7.1 In criminal cases, notice shall be provided to the prosecuting attorney.
- 10.1.7.2 In civil cases against the PBP or its personnel, notice shall be immediately provided to the City Law Department.
- 10.1.7.3 In civil cases not against the PBP or its personnel, the recordings shall be retained for a period of two years or until a copy of the recording has been provided to the requester when authorized under PBP policies, whichever comes first.

11.0 MOBILE VIDEO/AUDIO RECORDING STORAGE

11.1 The MVR Custodial Officers shall maintain a securable MVR locker/storage area for MVR media.

11.2 The MVR locker/storage area shall be considered a property storage area and shall remain locked, with access being restricted to MVR Custodial Officers.

12.0 Facial Recognition

12.1 The PBP does not use facial recognition software or programs.

13.0 Adherence to Policy

13.1 Failure to adhere to this policy may result in disciplinary action.

Approved By:



Scott Schubert
Chief of Police